

**STATE OF MAINE
DEPARTMENT OF MARINE RESOURCES**

**IN THE MATTER OF THE APPLICATION OF)
GREAT EASTERN MUSSEL FARMS FOR RENEWAL)
OF AN AQUACULTURE LEASE LOCATED)
IN MUD COVE, DEER ISLE, HANCOCK COUNTY,)
MAINE)**

**FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND DECISION**

On December 1, 2004, Great Eastern Mussel Farms applied for the renewal of an aquaculture lease issued on August 1, 1995. The applicant requested a ten-year renewal, to July 31, 2015 of a 25-acre bottom culture lease, BURG SN1, located in Mud Cove, in Deer Isle, Hancock County, Maine.

Notice of the application for lease renewal was published in the March 2005 issue of Commercial Fisheries News and the February 17, 2005 and March 3, 2005 issues of the Ellsworth American. Members of the public, riparians and interested persons were given to March 19, 2005 to submit comments or to request a hearing on the application for lease renewal. No comments or requests for a hearing on this application were received by the Department during the comment period.

Applications for aquaculture lease renewals are governed by 12 M.R.S.A. §6072(12) and Chapter 2.45 of the Department's rules, which provide that an aquaculture lease shall be renewed if the lessee has complied with the lease agreement during its term; the Commissioner determines that renewal of the lease is in the best interest of the state; the renewal will not cause the lessee to be a tenant of any kind in leases covering an aggregate of more than 300 acres¹; and the lease is not being held for speculative purposes.

The applicant has complied with the lease agreement during its term. In determining whether it is in the best interest of state to renew the lease, the Department takes into consideration, among other things, the potential for conflict with other new or existing uses of the area which the Commissioner determines to be a higher use of the area from the

¹ Pursuant to 12 M.R.S.A. §6072-A(13-A), the Commissioner may authorize a person to exceed the 300 acre limit, up to a maximum of 500 acres, provided that no more than 300 acres are "non-fallowed" at any time.

perspective of the public interest. There are no known conflicts with other new or existing uses of the area. Additionally, the renewal of this lease will not cause the applicant to lease more than 300 acres.

In determining whether the lease is being held for speculative purposes, the Department looks to whether substantially no aquaculture or research has been conducted on the lease site. The lease site has been actively used for mussel farming. Accordingly, substantial aquaculture has been conducted on the lease site over the term of the lease. Therefore, I find that the lease is not being held for speculative purposes.

Finally, in order for the Department to locate the lease site using modern location finding technology, i.e., Differential Global Positioning Systems, the lease description has been converted to Datum NAD83 and Degrees True. While the original site location shall remain the same, the following lease description shall replace the description set forth in the original lease document:

STARTING at the point Latitude 44°12'21.03"N, Longitude 68°34'20.43"W (datum NAD83/WGS84), and point of beginning; thence 99.47° True, a distance of 1636.51 feet to the northeast corner (44°12'18.37"N, 68°33'58.27"W); thence 223.79° True, a distance of 805.23 feet to the southeast corner (44°12'12.63"N, 68°34'05.92"W); thence 279.48° True, a distance of 1636.55 feet to the southwest corner (44°12'15.29"N, 68°34'28.08"W); thence 43.79° True, a distance of 805.23 feet to the northwest corner and point of beginning.

This new description sets forth the same boundaries of the original lease site, but is more precise and can be easily located through the use of modern technology.

Decision

The Commissioner of Marine Resources grants the application of Great Eastern Mussel Farms for renewal of the 25-acre aquaculture lease located in Mud Cove, in Deer Isle, Maine, for a period of ten years, to July 31, 2015. In the renewal of this lease, Great Eastern Mussel Farms is subject to the same terms, conditions, and obligations as set forth in the original lease.

Dated: _____

George D. Lapointe (Commissioner)
Department of Marine Resources